

SK:FAC/RAS
F. #2020R00640

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA

COMPLAINT

- against -

(7 U.S.C. §§ 136j(a)(1)(A), 136j(a)(1)(E)
and 136l(b)(1)(B); 18 U.S.C. § 371)

PO SHAN WONG and
ZHEN WU,

Case No. 20-MJ-1054

Defendants.

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EASTERN DISTRICT OF NEW YORK, SS:

K. ANGELA RIVERA, being duly sworn, deposes and states that she is a
Special Agent with the United States Environmental Protection Agency – Criminal
Investigation Division (“EPA-CID”), duly appointed according to law and acting as such.

In or about May 2020, within the Eastern District of New York and elsewhere,
the defendants PO SHAN WONG and ZHEN WU did knowingly and intentionally conspire
to distribute and sell one or more pesticides that are not registered with the United States
Environmental Protection Agency and that are adulterated or misbranded, contrary to Title 7,
United States Code, Sections 136j(a)(1)(A), 136j(a)(1)(E) and 136l(b)(1)(B).

(Title 18, United States Code, Section 371)

The source of your deponent's information and the grounds for her belief are as follows:¹

1. I am the Resident Agent in Charge for EPA-CID assigned to the Buffalo, New York Resident Office. As such, I am a federal law enforcement officer under Federal Rule of Criminal Procedure 41. I have been an EPA-CID Resident Agent in Charge since August 2010. I am a graduate of the Criminal Investigator Training Program at the Federal Law Enforcement Training Center in Glynco, Georgia. My responsibilities include investigating criminal violations of the environmental statutes administered by the EPA, including the Federal Insecticide, Fungicide and Rodenticide Act, codified at Title 7, United States Code, Section 136 et seq., and other related criminal statutes.

2. I am familiar with the facts and circumstances set forth below based on: my personal knowledge from participating in this investigation and speaking with others who have personal knowledge of the events and circumstances described herein; oral and written reports about this investigation from law enforcement personnel; and information gained through my training and experience.

3. The Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA") regulates the production, sale, distribution, and use of pesticides in the United States. A "pesticide" is any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest. 7 U.S.C. § 136(u); 40 C.F.R. § 152.3. The term "pest" is broadly defined to include, among other things, viruses, bacteria, or other micro-organisms.

¹ Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

7 U.S.C. § 136(t). The term antimicrobial pesticide means a pesticide that is intended to (i) disinfect, sanitize, reduce or mitigate growth or development of microbiological organisms; or (ii) protect inanimate objects, industrial processes or systems, surfaces, water, or other chemical substances from contamination, fouling or deterioration caused by bacteria, viruses, fungi, protozoa, algae, or slime. 7 U.S.C. § 136(mm); 40 C.F.R. § 152.5(d).

4. FIFRA requires all pesticides to be registered with the EPA before they can be sold or distributed. 7 U.S.C. § 136a(a). The registration process is detailed, and applicants are required to submit a substantial amount of information to the EPA in support of a request for registration. Items of information that must be submitted in support of an application to register a pesticide include: the complete formula of each pesticide for which registration is sought, including the identity of its active and inert ingredients; all proposed labeling for the pesticide; and a statement of all pesticidal claims to be made for the pesticide. See 7 U.S.C. § 136a(c).

5. Registered pesticides are given a product registration number beginning with the phrase “EPA Reg. No.” Pesticide-producing establishments also receive an establishment-registration number (designated by the phrase “EPA est. No.”). 40 C.F.R. §§ 156.10(e) and 156.10(f). As a condition of registration, all registered pesticides must have a label that bears both the product registration and establishment numbers. 40 C.F.R. § 156.10(a). This label also must contain several other pieces of information, such as the directions for use of the pesticide (40 C.F.R. § 156.10(i)); child hazard warnings (40 C.F.R. § 156.66); a first aid statement (40 C.F.R. § 156.68); precautionary statements for humans and domestic animals (40 C.F.R. § 156.70); and environmental hazard and precautionary statements (40 C.F.R. §§ 156.80 and 156.85). Proposed labels must be submitted to the

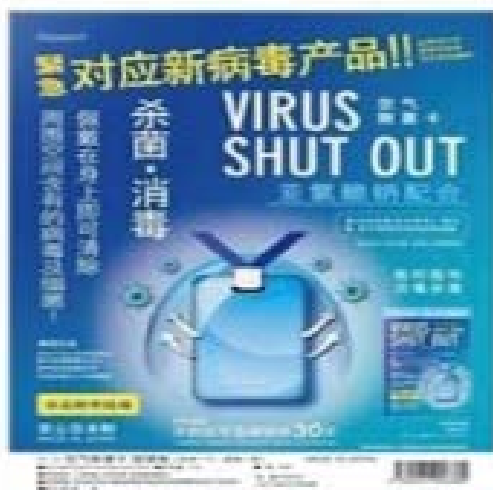
EPA along with the application for registration. 40 C.F.R. § 152.50(e).

6. It is unlawful for any person in any state to distribute or sell to any other person a pesticide that has not been registered under FIFRA. 7 U.S.C. § 136j(a)(1)(A). FIFRA defines “distribute or sell” to include not only actual sale or distribution of a pesticide, but also the act of offering a pesticide for sale. 7 U.S.C. § 136(gg); 40 C.F.R. § 152.3. It is also unlawful for any person to sell or distribute to any other person a pesticide that is “misbranded.” 7 U.S.C. § 136j(a)(1)(E). A pesticide is “misbranded” under FIFRA if, inter alia, its container does not have a label bearing the pesticide’s registration number or if its labeling bears any statement, design or graphic representation relative to the pesticide or its ingredients, which is false or misleading. 7 U.S.C. § 136(q)(1)(A).

7. Since approximately April 2020, EPA-CID has been investigating allegations that JCD Distribution Inc. (“JCD”) and individuals associated with this business have sold “Virus Shut Out Cards” and other unregistered and misbranded pesticides by phone, through JCD’s website (jcdus.com), and through JCD’s Facebook page (which has the display name “JCD Distribution Inc.”). Until in or about June 2020, JCD actively marketed and sold Virus Shut Out Cards to customers by telephone. Until on or about July 27, 2020, JCD advertised these products on its website and Facebook page.

8. On May 5, 2020, EPA’s National Computer Forensics Laboratory captured images from JCD’s Facebook page. The Facebook page contained images that depicted a blue card, approximately the size of a credit card, being used in day-to-day life by children and adults. For example, the images showed the blue card worn on a lanyard around a woman’s neck, hung from the lapel of a man’s suit jacket, hung from the pocket of a medical doctor’s white coat, attached to a little boy’s backpack, attached to a little girl’s

stroller, and attached to computer monitors, among other things. The Facebook page identified the blue card, in English, as a “TOAMIT virus shut out” card. The Facebook page also contained various claims regarding the Virus Shut Out Card in Mandarin, including that it was a “portable space disinfection and sterilization card” imported from Japan that “deals with the new virus,” “kill[s] germs,” has a “sterilization rate at 99%,” “can replace masks” and is “easier, more comfortable” than masks.² The Facebook page also appeared to include a depiction of the novel coronavirus or COVID-19. The following images, depicting the purported Virus Shut Out Card and its purported day-to-day use, were among the images captured from JCD’s Facebook page:



² Excerpts and summaries of online statements are drawn from draft and summary translations from Mandarin to English that are subject to revision.



9. JCD's Facebook page claimed that the Virus Shut Out Cards emit chlorine dioxide (ClO_2) and, thereby, "sanitize" the air around the user. Based on my knowledge, training, and experience, chlorine dioxide—a gas—is a bleaching agent and a pesticide as defined by FIFRA. 7 U.S.C. § 136(t), (u).

10. Based on my knowledge, training, and experience, and consultation with a toxicologist at the EPA National Enforcement Investigations Center ("EPA-NEIC"), depending on the level and length of exposure:

- a. breathing air containing chlorine dioxide may cause irritation in the nose, throat and lungs, shortness of breath, chronic bronchitis, and other respiratory problem, and in sufficiently high concentrations, chlorine dioxide exposure may cause difficulty breathing and an increase in white blood cells, which is a sign of inflammation;

- b. exposure to very large amounts of chlorine dioxide or chlorite through ingestion may result in damage to red blood cells, reducing the ability of the blood to carry oxygen to tissues and organs; and
- c. accidental ingestion of chlorine dioxide or chlorite by a child may cause subsequent damage to red blood cells and may make breathing difficult, and result in tissue or organ damage.

11. Based on my knowledge, training, and experience, and consultation with a toxicologist at the EPA-NEIC, products containing chlorine dioxide have not been demonstrated to be effective in treating or preventing COVID-19.

12. On May 7, 2020, law enforcement agents, acting in an undercover capacity, called JCD to place an order for JCD's Virus Shut Out Cards. The agents spoke with an employee of JCD, who informed them that JCD is a wholesaler of Virus Shut Out Cards, sells the cards in minimum quantities of 50, and charges \$9.50 per card. Law enforcement agents purchased 50 Virus Shut Out Cards for \$475, with an additional \$7.50 for shipping, and provided a shipping address and email address as part of the transaction. Law enforcement agents subsequently received an email containing an invoice and confirmation from JCD Sales Manager ZHEN WU (from the email address "zhen.wu@jcdus.com"). The invoice listed the "Virus Shut Out" product and a business address for JCD at 13-20 131st Street, College Point, NY 11356 ("JCD's Business Address").

13. On May 11, 2020, law enforcement agents received a small brown box from JCD at the shipping address that agents had provided to JCD. The box listed JCD's Business Address as the return address. The box contained 50 blue cards labeled as Virus

Shut Out Cards (the “Purchased Virus Shut Out Cards”). The product packaging claimed that the Virus Shut Out Cards contained the pesticide sodium chlorite.

14. Based on my knowledge, training, and experience, and consultation with the chief scientist at the EPA-NEIC, when sodium chlorite is exposed to the water vapor and carbon dioxide in the air, the substances react and create chlorine dioxide. Accordingly, when the Virus Shut Out Card packaging is opened and the Cards are exposed to the air, the majority of any sodium chlorite contained therein would convert into chlorine dioxide.

15. A prior analysis of Virus Shut Out Cards, which were created by the same manufacturer and which were seized during a separate investigation, showed that those Virus Shut Out Cards contained sodium chlorite in amounts sufficient to convert into chlorine dioxide.

16. A review of records from United States Customs and Border Protection revealed that on or about March 15, 2020, a shipment of Virus Shut Out Cards arrived at John F. Kennedy International Airport bound for JCD’s Business Address. The shipment was listed as consisting of 150 boxes, weighing 526 kilograms, and originating in Hong Kong, China.

17. On July 27, 2020, the Honorable Robert M. Levy, United States Magistrate Judge for the Eastern District of New York, issued a search warrant for JCD’s Business Address. On July 29, 2020, law enforcement agents executed the search warrant and seized approximately 104 large boxes, each of which contained between 150 and 200 retail-sized boxes of Virus Shut Out Cards (the “Seized Virus Shut Out Cards”).

18. During the execution of the search warrant, law enforcement agents interviewed ZHEN WU and PO SHAN WONG. ZHEN WU stated, in sum and substance and in part:

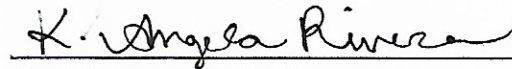
- a. ZHEN WU works for JCD, researching Japanese and Chinese products and comparing pricing. She is responsible for placing orders for all of JCD's orders of Japanese products.
- b. Before placing any orders, ZHEN WU sends product recommendations to PO SHAN WONG for his review.
- c. ZHEN WU placed the orders for the Virus Shut Out Cards.
- d. JCD tried to sell the Virus Shut Out Cards to pharmacies, but the pharmacies did not want the Virus Shut Out Cards because they were featured on the news as "not good for humans."

19. PO SHAN WONG stated, in sum and substance and in part:

- a. PO SHAN WONG is the General Manager of JCD.
- b. Before JCD purchases any product recommended by ZHEN WU, PO SHAN WONG reviews ZHEN WU's recommendations, approves them, and forwards those recommendations to the owner of JCD for final approval.

20. Random samples of the Purchased Virus Shut Out Cards and the Seized Virus Shut Out Cards contain sodium chlorite in amounts sufficient to convert into chlorine dioxide when exposed to the water vapor and carbon dioxide in the air.

WHEREFORE, your deponent respectfully requests that arrest warrants be issued for the defendants PO SHAN WONG and ZHEN WU, so that they may be dealt with according to law.



K. ANGELA RIVERA
Resident Agent in Charge
Environmental Protection Agency

Subscribed and sworn to before me by telephone
on November 5, 2020,

s/ Steven M. Gold

THE HONORABLE STEVEN M. GOLD
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK